IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

CHAMBER SUMMONS NO.1272 OF 2005
IN
APPEAL NO.672 OF 2005
IN
ARBITRATION PETITION NO.374 OF 2004

Datar Switchgear Limited .. Applicant

v/s.

Maharashtra State Electricity
Board & ors. .. Respondents

Mr.R.A.Dada, senior counsel with Mr.Vaibhav Joglekar and Mr.C.S.Balsara i/by M/s.S.Mohmedbhai & Co. for the applicant.

Mr.Gaurav Joshi i/by M/s.Little & Co. for the respondent Nos.1 and 2.

CORAM : R.M.LODHA AND
D.G.KARNIK, JJ.

DATED : 19th November, 2005

P.C.

Heard Mr.R.A.Dada, the learned senior counsel for the appellant-applicant and Mr.Gaurav Joshi, the learned counsel for the respondent Nos.1 and 2.

2. By this chamber summons, the appellant prays for addition of three new grounds as set out in schedule 'A'. The appellant-applicant has also prayed for annexing the copy of the letter dated August 30, 2004 alongwith the compilation of the appeal.

3. As regards the proposed ground Nos.183 and 184 set out in schedule 'A', we are of the view that the said grounds may be allowed to be added in the

memo of appeal.

4. In so far as proposed ground No.185 is concerned, the learned counsel for the respondents raised two-fold objection viz. (i) that no such ground was raised by the appellant before the learned Single Judge. and (ii) that the letter dated August 30,2004 upon which reliance is sought to be placed by the appellant was not produced by the present appellant before the learned Single Judge.

5. Confronted with the difficulty that the letter dated August 30, 2004 was not produced by the appellant before the learned Single Judge, Mr.R.A. Dada, the learned senior counsel for the appellant submits that the appellant does not insist on production of the said document in appeal. In view thereof, we are satisfied that the proposed ground No.185 may be allowed to be added save and except the bracketed portion.

6. In what we have noticed above, obviously, no further order needs to be passed in respect of the amendment in the compilation of appeal by adding copy of the letter dated August 30, 2004.

7. Chamber summons is, accordingly, granted by permitting the appellant to amend the memo of appeal by adding grounds 183, 184 and 185 (save and except the bracketed portion). The amendment in the memo of appeal shall be carried out within

two weeks from today and amended copy of the memo of appeal shall be served on the respondents. At the time of hearing of the appeal, it shall be open to the respondents to urge that the grounds which were not raised before the learned Single Judge should not be considered.

8. Chamber summons stands disposed of accordingly.

(R.M.LODHA, J.)

(D.G. KARNIK, J.)